

REMARKS

Summary

Claims 1-21 stand in this application. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

35 U.S.C. § 103

At page 3, paragraph 3 of the Office Action claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US 7,099,346 to Kanterakis ("Kanterakis") in view of US 5,179,557 to Kudo ("Kudo") and further in view of US 5,790,534 to Kokko et al. ("Kokko"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. *See* MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-21. Therefore claims 1-21 define over Kanterakis, Kudo and Kokko whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

initiating a channel access for at least one of a plurality of queues, each queue corresponding to a receiver address of a received packet....

As correctly noted in the Office Action, the above-recited language is not disclosed by Kanterakis and Kudo. According to the Office Action, the missing language is disclosed by Kokko at Fig. 1, 14A and column 6, lines 24-45. Applicant respectfully disagrees.

Applicant respectfully submits that Kokko fails to disclose the missing language of the claimed subject matter. For example, Kokko at the given cite, in relevant part, states:

The BS 16 includes: n receivers 14A (Rx 1-RX N) for receiving the packet data and for generating acknowledgements (ACK) or negative acknowledgements (NACKs), depending on whether a given packet is successfully received.... The load monitor 14B, in accordance with this invention, calculates a total amount of required resources and compares the required amount to a maximum available amount of resources. If the required amount of resources does not exceed the maximum available amount of resources, the load control module 14C grants permission to transmit using a predetermined algorithm or rules base, as described below. The BS 16 sends to each requesting terminal 12 a transmission permission, or a transmission prohibition, using the assigned CCH-fs. Packet terminals or MSs 12 which

receive permission to transmit start their packet
transmission in the associated TCH-r immediately (i.e., in
the next frame).

By way of contrast, the claimed subject matter teaches “initiating a channel access for at least one of a plurality of queues, each queue corresponding to a receiver address of a received packet....” Applicant respectfully submits that this is different than the above recited teaching of Kokko.

Applicant respectfully submits that the teaching of Kokko is, arguably, directed to load control for a CDMA cellular system. The cited portion of Kokko, in particular, arguably teach multiple receivers for receiving packet data, acknowledging receipt of the packet data, monitoring the amount of resources necessary to transmit the packet data and transmitting the packet data based on predetermined algorithms or rules. Applicant respectfully submits that this is clearly different than a plurality of queues, each queue corresponding to a receiver address for a received packet as recited in claim 1.

Furthermore, Applicant respectfully submits that he has been unable to locate any teaching in Kokko directed to the above recited language of claim 1. Applicant submits that Kokko fails to even mention queues corresponding to a receiver address of a received packet as recited in claim 1. Therefore, Kokko fails to disclose, teach or suggest the missing language. Consequently, Kanterakis, Kudo and Kokko, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 6, 17 and 19-21 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 6, 17 and 19-21 are not obvious and are patentable over the cited

references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 6, 17 and 19-21. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2-5, 7-16 and 18 that depend from claims 1, 6, 17 and 19-21 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

For at least the above reasons, Applicant submits that claims 1-21 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-21 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Appl. No. 10/634,417
Response Dated May 19, 2008
Reply to Office Action of February 19, 200802/19/2008

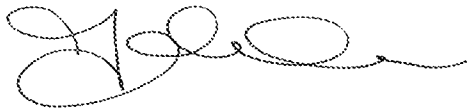
Docket No.: 1020.P17472
Examiner: Chery, Dady
TC/A.U. 2616

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

KACVINSKY LLC

A handwritten signature in black ink, appearing to read 'John F. Kacvinsky', with a long horizontal flourish extending to the right.

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: May 19, 2008

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